

Appl. No. 10/748,098
Response dated: May 2, 2006
Reply to Office action dated: February 6, 2006

REMARKS

In response to the Office Action dated February 6, 2006, Applicants respectfully request reconsideration based on the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Claims 1-7 are pending in the present Application for consideration upon entry of the following remarks.

Reconsideration and allowance of the claims are respectfully requested in view of the following remarks.

Claim Rejections Under 35 U.S.C. §103

Claims 1-3 and 5-7 stand rejected under 103(a) as being unpatentable over the primary reference Park et al., U.S. Patent Publication No. 2004/0191413 (hereinafter "Park") in view of Murakami et al., U.S. Patent No. 5,728,223 A (hereinafter "Murakami") for the reasons stated on pages 2-9 of the Office action. Also, Claim 4 stands rejected under 103(a) as being unpatentable over the primary reference Park and Murakami and Yukihiro et al., U.S. Patent No. 5,447,568 A (hereinafter "Yukihiro") for the reasons stated on pages 9-10 of the Office action.

Applicants respectfully submit that the Examiner is precluded from making a rejection under 35 U.S.C. §103(a) using Park as a reference. As stated in the Office Action at the bottom of Page 3, Park's filing date is the International Filing date of the PCT application, July 16, 2002 and therefore Park is a 102(e) reference as of July 16, 2002. Park and the present application are commonly assigned to IPS Ltd.. Under 35 U.S.C. §103(c), "subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

For applications filed on or after November 29, 1999, this rejection may be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See 35 U.S.C. 103 (c), MPEP 706.02(1)(1) and 706.02(1)(2). As noted in the clear and conspicuous statement below, the present application and Park were, at the time the

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invention of the present application was made, subject to an obligation of assignment to the IPS Ltd.. Therefore, Park is now disqualified as prior art and should not be used in a 35 U.S.C. 103(a) obviousness rejection. Accordingly, the various rejections of Claims 1-7 under 35 U.S.C. § 103(a) over Park should be withdrawn.

Statement Concerning Common Ownership

U.S. Patent Publication No. 2004/0191413 and the present invention were, at the time the invention of the present application was made, subject to an obligation of assignment to the IPS Ltd.

Conclusion

In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicants' attorney hereby authorizes that such fee be charged to Deposit Account No. 06-1130.

Respectfully submitted,

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